

Remarks/Arguments

Reconsideration of this application is respectfully requested in view of the forgoing amendment to the claims and the following remarks.

The status of the claims is as follows: 1-34 and 80-106 are pending and have been rejected.

Claim 3 has been amended to address the issues in paragraph 2 of the official action. Withdrawal of the objection is requested.

All claims have been rejected under 35 USC §103(a) as obvious in view of U. S. Patent No. 5,617,857, Chader, et al, hereafter referred to as "Chader." This rejection is traversed.

As noted in the instant specification on page 2, lines 6 and following, there were wireless navigation systems available at the time of filing the present application. These include magnetic systems that are similar to U. S. Patent No. 6,453,190, Acker, hereinafter referred to as "Acker," used as a secondary reference to further reject the claims as discussed below, audio systems, and the like. However, for an active optical system, the ability to control the active optical elements as set out in the present claims was not believed possible in a real time manner. One reason for this is the shear volume of information that must be passed between the navigation system and the tracking device. This complexity is recognized in Chader in that each LED has its own lead wire as shown in FIG. 2 of Chader.

An active optical system of the type claimed must fire each LED in a predetermined pattern so that the system can properly recognize and track the device. Even though wireless systems were known, even at the time of the Chader invention, it was not thought possible to

have a real time wireless active optical navigation system. Therefore, while the examiner asserts that it would have been an obvious extension of Chader to make that system wireless, the actual achievement of what the examiner considers as obvious is a significant technical feat, that would not have been apparent or obvious at the date of the present invention. While it might have been obvious to try to make Chader wireless, achieving this result is actually the antithesis of obviousness. As the examiner understands, “obvious to try” is not a valid test for obvious subject matter.

As far as the limitations in claims 2, 24, and 30, from the examiner’s remarks it seems that examiner does not understand the nature of this limitation. It is not a mere matter of bringing something within radio range, but there must be an interchange between the system and the tracking device where the system sends a signal querying if there are new devices and the new device after receiving this signal responds providing identifying information. There is an active interchange here that is not disclosed or in any way suggested by Chader. In Chader, the only way the system can identify a device is when the device is physically plugged into the system of Chader. The distinction is that Chader passively waits for something to be attached as opposed to the active querying of the system as claimed in claims 2, 24, and 30. Clearly Chader does not suggest this active limitation. The examiner has made multiple changes to the device of Chader to reach the rejection of Claim 1 and then adds still more changes to reach the limitation of claim 2. Chader does not support the examiner’s assertions in the office action.

Therefore, it is contended that the rejection of all claims based on Chader alone under 35 USC 103 is unwarranted and should be withdrawn.

The examiner has also rejected all claims based on Chader in view of Acker. As noted above, Acker is a magnetic system. Magnetic wireless systems were well known at the time of Chader. However, the combination of these two dissimilar systems would not have been considered appropriate by a person of ordinary skill in the art at the time of the present invention. A magnetic system communicates with the tracking devices based on changes in magnetic field. This is a very different methodology from the active optical systems of the present invention. There is no transceiver in a magnetic system. There is no instruction to activate emitters. Acker adds nothing to the disclosure of Chader and because of the dissimilar nature of the tracking systems, it is contended that it would not have been considered obvious to a person of ordinary skill in the art to combine Chader and Acker in any fashion, much less to come up with or suggest the device as claimed in the present application.

For these and other reasons, it is contended that all claims contain allowable subject matter and that these claims are not properly rejected based on Chader either alone or in combination with Acker. An early indication of allowability is requested.

Respectfully submitted,

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